

# EXHIBIT K

**Brenner, Wendy**

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**From:** Anna Levine [alevine@dralegal.org]  
**Sent:** Wednesday, December 08, 2010 4:20 PM  
**To:** Brenner, Wendy  
**Subject:** Enyart: Proposal for Third Preliminary Injunction  
**Attachments:** February.2011.MBE.technical.proposal.12-08-10.doc

Dear Wendy,

Thank you for your message this afternoon. As I previously raised at the hearing on NCBE's motion for continuance last Friday, and discussed afterwards with Greg, Stephanie would like this third preliminary injunction to address technological problems that arose at the July and August 2010 test administrations. Attached is a proposal aimed at addressing those problems.

I understand from Dan Goldstein that NCBE, in turn, would like any stipulated preliminary injunction to include (1) an agreement that the stipulated injunction will not be used as evidence of their liability and (2) a provision that their agreement is void if the Ninth Circuit issues a decision before the February test administration.

To address (1), I have inserted a paragraph at the end of the attached document, borrowing from language that we included, at NCBE's request, in the cover letter filed with the stipulated terms for the second preliminary injunction order. We would be glad to hear your suggestions regarding (2).

I will be available by telephone all day tomorrow, and look forward to talking with you about this.  
Sincerely,

Anna

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CONFIDENTIAL COMMUNICATION

Enyart v. National Conference of Bar Examiners, Case No.: C09-05191 CRB

Plaintiff's Proposal for Technological Arrangements Regarding  
Administration of MBE to Stephanie Enyart on February 2011 California Bar Exam

1. Stephanie Enyart will obtain a new laptop computer ("the laptop") on which the most recent versions of JAWS and ZoomText will be installed, customized with Ms. Enyart's settings and with all proper drivers to ensure compatibility of the programs. The laptop will also be equipped with Windows 7, MS Word 2010, all necessary drivers for the printer to be used by Ms. Enyart during the California Bar exam, and antivirus software. No other programs will be included on the laptop, and the laptop will be devoid of any data files other than those necessary to the operation of the above-described software.

2. On or before February 1, the laptop will be shipped to designated personnel at NCBE so that NCBE may check the laptop for any hidden files or other items that NCBE considers to be a security risk in advance of the February administration of the California Bar Exam. If NCBE detects any such security problems, NCBE will report the matter to its counsel, who will meet and confer with counsel for Ms. Enyart to resolve the situation. NCBE may also take steps during this time to password-protect the laptop, ensure that the laptop cannot connect to the internet and disable editing features in MS Word. If no security concerns arise during the time the laptop is in NCBE's custody, NCBE will install a file containing non-secure sample MBE questions that can be used to test the software in advance of the MBE. NCBE will then ship the laptop to the State Bar of California under the same conditions used for the prior administrations of the California Bar Exam to Ms. Enyart in February and July of 2010. In a separate shipping container, the NCBE will ship a CD containing the MBE questions in MS Word format to the State Bar so that State Bar personnel can load the MBE questions onto the laptop at the appropriate time.

2. NCBE will ship or otherwise transport the laptop so as to arrive at the State Bar's headquarters no later than February 16, 2011, the Wednesday before the week of the February 2011 California Bar exam. The State Bar will then make arrangements to let Ms. Enyart or a technical expert of Ms. Enyart's choosing inspect the laptop no later than Friday, February 18, at a mutually agreed-upon location, to verify that the software is working properly. Ms. Enyart will also be permitted to connect her peripheral devices (mouse, keyboard, and monitor) to the laptop at this time to ensure their compatibility with the laptop. During this inspection, the State Bar and Ms. Enyart or the designated will make arrangements to fix any technical problems that are detected. During this inspection and any required work to fix technical problems, the State Bar will be responsible for maintaining the security of the laptop.

3. On Monday, February 21, the day before the first day of the administration of the California Bar exam to Ms. Enyart, Ms. Enyart will be permitted to set up her keyboard, mouse and monitor in the testing room with the laptop to again ensure their compatibility. Ms. Enyart will then take all sections of the California Bar exam, including the MBE, on the laptop. Those sections of the exam that are developed by the State Bar of California will be loaded onto the laptop via CD, and at the end of each day of testing

State Bar personnel will supervise Ms. Enyart's printing of her answers and will then delete all questions and answers from the laptop.

4. On Saturday, February 26, 2011, the first day of the administration of the MBE to Ms. Enyart, State Bar personnel will load the MBE questions onto the laptop from the CD separately provided by NCBE and will ensure the security of the MBE exam CD at all times. The laptop will remain in the testing room, with all peripherals attached, between Monday, February 21 and Sunday, February 27, and the security of the laptop during this time will be ensured by the State Bar of California.

5. After Ms. Enyart has finished taking the California Bar exam on the laptop, the State Bar of California will return the laptop to NCBE, or NCBE shall make such other arrangements as it believes are necessary for the continued security of the laptop.

6. NCBE may thereafter keep the laptop permanently and use it in whatever way it sees fit. Ms. Enyart will not expect the laptop to be returned to her.

7. All other terms of the prior preliminary injunctions ordered in this case, such as the other items Ms. Enyart is permitted to bring into the test room and the font in which the MBE questions must be displayed (Ariel 14-point) shall remain in effect.

8. Although counsel for NCBE has met and conferred with Counsel for Ms. Enyart as to the specific terms of the injunction, NCBE does not agree to, consent to, or otherwise acquiesce in the issuance or entry of the preliminary injunction. Thus, this injunction does not represent evidence regarding any defenses that NCBE may present and is without prejudice as to any rights that the NCBE may have to appeal or otherwise challenge the Court's ruling on Ms. Enyart's prior motions for preliminary injunction and NCBE reserves all such rights.